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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/782,337 | 02/13/2001 | Natarajan S. Ramesh | CSAC-0009 | 9820 |
| 28236 | 7590 | 04/01/2004 | EXAMINER | |
| CRYOVAC, INC. SEALED AIR CORP P.O. BOX 464 DUNCAN, SC 29334 | | | CHANG, VICTOR S | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1771 | |

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/782,337

Applicant(s)

RAMESH ET AL.

Examiner

Victor S Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,10,13-16,18,19,22-27 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) 24-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10,13-16,18,19,22,23 and 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner has carefully considered Applicants' Declaration, amendments and remarks filed on 12/8/2003. Applicants' amendments to claims 1 and 3, cancellation of claims 11, 12, 20 and 21 have been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn. In particular, Applicants' argument that "Deibel reference is directed to facers of alkenyl aromatic polymers, not polyolefin polymers, is persuasive, as such the rejection in section 9 of Paper No. 0827 is withdrawn.
4. This application contains claims 24-27 drawn to an invention nonelected without traverse in Paper No. 6. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

5. Claims 13-14 and 29-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use

the invention, substantially for the reasons set forth in section 5 of Paper No. 0827, together with the following additional observations.

Mr. Ramesh's Declaration stating that "it is my opinion that, contrary to the seeertion in the Office action, heat lamination of an oriented film does not result in a "wrinkle problem," because one of skill in the art understands how to manipulate the process to prevent any such wrinkling from occurring" (Declaration, page 2, point 7) has been carefully considered, but is not persuasive. The Examiner notes that Mr. Ramesh has not presented any experimental data showing the heat-heat lamination conditions, such as temperature and line speed, etc. As such, the Declaration is deficient as being lack of any evidentiary support, and appears as mere argument.

With respect to Applicants' argument that "one of skill in the art would readily recognize that the speed and temperature of the process ... can be easily adjusted to ensure that the lamination temperature remains below the heat set temperature of the film used, thus eliminating both shrinkage and wrinkling of the film. Adjustments such as these are made routinely by persons of skill in the art" (Remarks, page 6, bottom paragraph), the Examiner repeats (see Paper No. 0827, page 2) that the Specification lacks a teaching as to how to prevent the known wrinkle problem typically associated with the heat shrinkage of an oriented film by heat lamination, which is clearly unexpected results, as evidenced by the teachings of Akao (column 1 line 66 to column 2, line 2), Applicants' argument to the contrary notwithstanding.

Response to Amendment

6. Claims 1-7, 9, 10, 15-16 and 18, 19, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akao (US 4469741) in view of Foster (US 5968630), substantially for the reasons set forth in section 9 of Paper No. 0827, together with the following additional observations.

It is noted that newly amended claim 1, line 1, now recites "consisting essentially of".

With respect to Applicants' argument that "As reflected in amended claim 1 ... the first and second films of the present invention are heat-laminated to the foam, eliminating the use of an adhesive layer" (Remarks, page 8, second paragraph), the Examiner repeats (see Paper No. 0827, page 4) that the Akao expressly teaches that adhesive layers used to bond the film layers may be comprised of various adhesives such as low-density polyethylene adhesives, etc. (column 3, lines 1-9), and in Example 1, Akao shows that the laminate is formed by an adhesive layer composed of low density polyethylene (column 4, line 52). As such, the combined teachings of Akao and Foster clearly render the instantly claimed laminate obvious, since after lamination and cooling the low density polyethylene adhesive and the outer polyolefin films are believed to inherently form two outer integral polyolefin films, which still reads on the instantly claimed invention. Finally, with respect to the product-by-process recitation "heat-laminated to" in claim 1, the Examiner repeats that the method limitation has not been shown on the record to produce a patentably distinct article, as such the formed articles are rendered *prima facie* obvious.

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1300-

1700

Daniel Zinker